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Conditions of service and compensation for officials other than Secretariat officials

Members of the International Court of Justice

Judges of the International Criminal Tribunal for the Former Yugoslavia

Judges of the International Criminal Tribunal for Rwanda

Ad litem judges of the International Criminal Tribunal for the Former Yugoslavia

Ad litem judges of the International Criminal Tribunal for Rwanda

Report of the Secretary-General

I. Introduction

1. In paragraph 2 of its resolution 56/285 of 27 June 2002, the General Assembly decided that the conditions of service and remuneration for the members of the International Court of Justice (ICJ), and the judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY), the judges of the International Tribunal Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (ICTR) and the ad litem judges of ICTY should next be reviewed at its fifty-ninth session.

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2. The General Assembly, in its resolution 57/289 of 20 December 2002, considered the revised estimates arising in respect of Security Council resolution 1431 (2002) of 14 August 2002 on the establishment of ad litem judges in ICTR and endorsed the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions (A/57/593). In paragraph 23 of its report, the Advisory Committee recommended approval of the proposal contained in paragraph 28 of the report of the Secretary-General (A/57/587), whereby the conditions of service approved by the Assembly for the ad litem judges of ICTY also be applied to the ad litem judges of ICTR. Accordingly, the Advisory Committee recommended and the Assembly approved the proposed conditions of service as set out in paragraphs 29 to 34 of the Secretary-General's report. In so doing, the Assembly also agreed that the conditions of service of the ad litem judges of ICTR would be reviewed at its fifty-ninth session.

3. In order to facilitate consideration of the various issues regarding the compensation and conditions of service of members of the Court, the judges of ICTY, the judges of ICTR, the ad litem judges of ICTY and the ad litem judges of ICTR, the present report is presented as follows: section II is devoted to the members of ICJ; section III focuses on the judges of ICTY, the judges of ICTR, the ad litem judges of ICTY and the ad litem judges of ICTR; and section IV contains an analysis and recommendations concerning remuneration, including adjustment for currency fluctuation and cost of living, other conditions of service, pensions, financial implications, and the next comprehensive review.

II. Members of the International Court of Justice

A. Remuneration

Background

4. Article 32 of the Statute of ICJ provides, in paragraph 1, that each member of the Court shall receive an annual salary and that, in paragraph 5, these salaries and allowances "shall be fixed by the General Assembly" and that "they may not be decreased during the term of office".

5. Since 1976, the General Assembly has conducted periodic reviews of the emoluments of the members of the Court, with the last comprehensive review having been undertaken at the fifty-sixth session of the General Assembly. On that occasion, the Secretary-General, in paragraph 89 of his report (A/C.5/56/14), noted that according to official statistics of the Netherlands provided by the Court, the consumer price index for the Netherlands for the period from 1 January 1999 to 31 March 2001 had increased by 8.15 per cent. Over the three-year period 1999-2001, the United States dollar had gained, on average, 19 per cent against the guilder. Thus, in real terms, the emoluments of the members of ICJ overall, had more than kept pace with increases in the cost of living in the Netherlands. Accordingly, the Secretary-General was of the opinion that the annual emoluments of the members of the Court, the judges of the two Tribunals and the ad litem judges should be maintained at their current level of $160,000.

6. The Secretary-General also noted that that mechanism used to regulate emoluments against the weakening/strengthening of the United States dollar against the guilder had continued to provide adequate protection in the value of the level of salary of the judges over the last three-year period and thus proposed that the same floor/ceiling mechanism continue to be applied to the emoluments of the judges based on the euro.

7. The General Assembly, in paragraph 1 of its resolution 56/285, agreed with the recommendation of the Advisory Committee on Administrative and Budgetary Questions to maintain the salary of the members of ICJ at $160,000 per annum and to continue the floor/ceiling mechanism applied to the emoluments of the judges following the formal introduction of the euro, beginning on 1 January 2002.

8. The emoluments of the members of the Court are sui generis. However, on the occasion of the periodic comprehensive reviews of the emoluments and conditions of service of the members of the Court, information on the net remuneration of senior Secretariat officials, of the Chairman of the Advisory Committee on Administrative and Budgetary Questions, of the Chairman and Vice-Chairman of the International Civil Service Commission, and of the members of the Joint Inspection Unit, as well as the gross emoluments of the president and members of the highest courts in national judiciaries of a number of States and of international courts have been provided as reference points for purposes of comparative assessment.

9. The annexes to the present report contain updated information concerning the evolution of emoluments from January 2000 to January 2004. Annex I compares the movement of the judges' total emoluments with changes in the remuneration of senior Secretariat officials and that of full-time members of other subsidiary bodies of the United Nations. Annex II provides information obtained, with the assistance of the Court and permanent missions to the United Nations, on the movement of gross emoluments of the president and members of the highest courts in a number of national judiciaries. The annex also presents information on the movement in emoluments of the president and members of the Court of the European Communities in Luxembourg, the Iran-United States Claims Tribunal, and the International Criminal Court in The Hague, as well as the emoluments of the president and members of the European Court of Human Rights in Strasbourg.

Currency floor/ceiling mechanism

10. It will be recalled that in April 1987, the International Civil Service Commission introduced the concept of a local currency floor and ceiling at a number of duty stations, including The Hague, to protect staff against the weakening of the dollar. In paragraphs 11 to 15 of his report to the General Assembly at its forty-eighth session (A/C.5/48/66), the Secretary-General provided the background and discussed the functioning of the floor/ceiling system, as applied to the emoluments of the members of the Court.

11. Based on the methodology proposed by the Secretary-General and, as recommended by the Advisory Committee on Administrative and Budgetary Questions and approved by the General Assembly, the floor/ceiling rates are set at 4 per cent below and 4 per cent above the average exchange rate of the euro vis-à-vis the United States dollar of the previous year. This mechanism has continued to be applied since the last comprehensive review of the emoluments and conditions of service for the members of the Court. For the year 2001, the average exchange rate

was 1.11656 euros to the dollar. On this basis, for 2002, the floor/ceiling exchange rates were set at 1.0719 and 1.16122 euros, respectively. The floor exchange rate of 1.0719 euros to the dollar resulted in a currency floor of 14,292 euros per month and the ceiling exchange rate of 1.16122 euros to the dollar resulted in a currency ceiling of 15,483 euros per month.

12. For the year 2002, the United States dollar weakened vis-à-vis the euro and the average exchange rate was 1.07 euros to the United States dollar. On this basis, for 2003, the floor/ceiling exchange rates were revised to 1.0272 and 1.1128 euros, respectively. The floor exchange rate of 1.0272 euros to the dollar resulted in a currency floor of 13,696 euros per month and the ceiling exchange rate of 1.1128 euros to the dollar, resulted in a currency ceiling of 14,837 euros per month.

13. For the year 2003, the United States dollar continued to weaken vis-à-vis the euro and it was expected that by the end of the year, the floor/ceiling amounts for 2004 would decrease by some 18 per cent. The average exchange rate for 2003 was 0.8958 euros to the dollar, representing a decrease of 16.3 per cent over the average exchange rate for 2002. On this basis, for 2004, the floor/ceiling exchange rates would have been revised to 0.86 and 0.93163 euros, respectively. As a consequence, the amount of 12,421 euros, which would correspond to the ceiling amount for 2004, would have been much lower than the floor level amount of 13,696 euros corresponding to the monthly emoluments received by the members of ICJ and the judges of the Tribunals during the 12 months of 2003.

14. The above situation was not unprecedented. In 1996 and 1997, when the value of the United States dollar dramatically fell between the periodic review of the conditions of service of the members of the Court, the Assistant Secretary-General for Human Resources Management wrote to the Advisory Committee on Administrative and Budgetary Questions recalling the provisions of article 32 of the Statute of ICJ, which specifies that the remuneration and allowances of the members of the Court "shall be fixed by the General Assembly" and "may not be decreased during the term of office". Accordingly, the Office of Human Resources Management advised the Advisory Committee that pending the next comprehensive review of the conditions of service for the members of the Court, it had been found reasonable to continue to apply in 1996 the floor/ceiling ratio for 1995. The ratio was also maintained in 1997 for the same reasons. On the basis of that precedent, and bearing in mind the continued trend in the weakening of the United States dollar vis-à-vis the euro, the Assistant Secretary-General for Human Resources Management advised the Advisory Committee, pending the comprehensive review of the conditions of service of the members of ICJ and the judges of the Tribunals in 2004, of the proposal to follow the same approach and to use in 2004 the floor/ceiling rates used for 2003.

15. Consequently, the floor/ceiling rates of 1.0272 and 1.1128 euros, respectively, applied in 2003 for the purpose of effecting monthly payments in euros to the members of ICJ and the judges of ICTY and those judges of ICTR serving in The Hague are being applied in 2004. The floor exchange rate of 1.0272 euros to the dollar results in a currency floor of 13,696 euros per month and the ceiling exchange rate of 1.1128 euros to the dollar results in a currency ceiling of 14,837 euros per month.

16. Table 1 below indicates the official exchange rate for the euro against the United States dollar for the period from January 2002 to August 2004.

Table 1
Exchange rate of the euro to the United States dollar, January 2002-August 2004

Month	*2002*	*2003*	*2004*
January	1.136	0.958	0.801
February	1.136	0.931	0.804
March	1.158	0.929	0.804
April	1.143	0.929	0.820
May	1.108	0.911	0.844
June	1.065	0.849	0.816
July	1.019	0.875	0.821
August	1.016	0.877	0.831
September	1.015	0.922	
October	1.022	0.875	
November	1.017	0.852	
December	1.009	0.842	

17. The floor amount has been payable for 27 months, of the 32-month period from January 2002 to August 2004. On this basis, it can be seen that the floor/ceiling mechanism used to regulate emoluments against the weakening/strengthening of the dollar has served to limit the diminution of the emoluments of the members of ICJ expressed in euro when the dollar weakened against the euro, particularly in 2003 and the first eight months of 2004.

18. According to the Netherlands Central Bureau of Statistics, the consumer price index for the Netherlands for the period from January 1999 to May 2004 increased by 17.4 per cent. For the period from January 2002 to January 2004, the index for the Netherlands increased by 3.68 per cent. Since January 2002, the United States dollar lost, on average, 26.8 per cent against the euro.

B. Other conditions of service

19. The background of other conditions of service of the members of ICJ is provided in the report of the Secretary-General to the General Assembly at its forty-eighth session (A/C.5/48/66): i.e., in paragraphs 16 to 21, concerning the special allowances of the President and of the Vice-President when acting as President; in paragraphs 22 and 23, relating to compensation of ad hoc judges; and in paragraphs 24 to 31, pertaining to the costs of educating children.

Special allowance of the President and the Vice-President when acting as President

20. Article 32 of the Statute of the Court provides that the President shall receive a special annual allowance (para. 2) and that the Vice-President shall receive a special

allowance for each day on which he acts as President (para. 3). As is the case with remuneration, these allowances "shall be fixed by the General Assembly" and "may not be decreased during the term of office" (para. 5). In its resolution 31/204 of 22 December 1976, the General Assembly provided that the allowances "shall be reviewed concurrently with the periodic review of their annual salary" (para. 3).

21. In section IV, paragraph 2, of its resolution 50/216 of 23 December 1995, the General Assembly approved the recommendation of the Advisory Committee on Administrative and Budgetary Questions that the President's special allowance should remain at $15,000 a year and that the special daily allowance paid to the Vice-President when acting as President should remain at $94 per day, subject to a maximum of $9,400 per year.

22. With regard to the President's special allowance and the special daily allowance for the Vice-President when acting as President, on the occasion of the most recent review, in 2001, the Court made representations that although the Court's workload had increased dramatically, both the aforementioned allowances had remained unchanged since 1985.

23. In his report of 12 November 2001 (A/C.5/56/14), the Secretary-General took note of the arguments presented by the Court and the stated increase in the workload of ICJ since 1985 and the heavy workload of both Tribunals, and noted that a considerable amount of time had passed since the special allowance of the President of the Court had last been revised, i.e., over 15 years ago. The Secretary-General found the recommendation to increase the special allowance reasonable and suggested that consideration be given to increase the special allowance of the President from $15,000 to $20,000, which would represent an increase of some 30 per cent in the current level of the special allowance of the President of the Court and the President of ICTY and the President of ICTR. A commensurate increase in the allowance of the Vice-President of ICJ and the Vice-President of ICTY and the Vice-President of ICTR when acting as President, respectively, would result in the daily special allowance of the Vice-President being increased from $94 a day to $125 a day, subject to a maximum of $12,500 per year.

24. The Advisory Committee on Administrative and Budgetary Questions, in paragraph 5 of its report of 6 December 2001 (A/56/7/Add.2), stated that it was not convinced at that stage of the need to increase the level of the special allowance for the President and for the Vice-President when acting as President and, accordingly, recommended against the proposal.

Ad hoc judges

25. Under article 31 of the Statute of the Court, persons whom parties to cases before the Court choose "to take part in the decision on terms of complete equality with their colleagues" (para. 6) are known as ad hoc judges. Under article 32, paragraph 4, of the Statute, they "shall receive compensation for each day on which they exercise their functions". The historical background to the determination of the amount of that compensation was presented in the report of the Secretary-General to the General Assembly at its fortieth session (A/C.5/40/32, paras. 35-41).

26. The General Assembly, in paragraph 3 of its resolution 48/252 A of 26 May 1994, decided that, with effect from 1 January 1994, the ad hoc judges referred to in article 31 of the ICJ Statute should receive for each day they exercised their

functions, one three-hundred-and-sixty-fifth of the annual salary payable at the time to a member of the Court. On the occasion of the 1995 review, the Secretary-General proposed that no change be made in those arrangements. The Assembly, in section IV, paragraph 2, of its resolution 50/216, concurred with that proposal. On the occasion of the 1998 review, the Secretary-General proposed that no change be effected in those arrangements. The Assembly, in part VIII, paragraph 2, of its resolution 53/214 of 18 December 1998, concurred with that proposal.

Assistance with education costs

27. The background to the issue of assistance with education costs, as applied to the members of the Court, is provided in paragraphs 24 to 29 of document A/C.5/48/66. In his report to the General Assembly at its fifty-third session (A/C.5/53/11), the Secretary-General proposed that, further to Assembly resolution 45/250 C of 21 December 1990, the increase in the level of the education grant (including for disabled children) effective 1 January 1997, applicable to staff in the Professional and higher categories approved by the Assembly in resolution 51/216 of 18 December 1996, should be extended, under the same conditions, to the members of the Court, as from the school year in progress on 1 January 1998. He also recommended that any decision taken by the Assembly at its fifty-third session to update the levels of the education grant or changes in the provisions regarding disabled children should be extended to the members of the Court. In paragraph 11 of its report (A/C.5/53/11), the Advisory Committee on Administrative and Budgetary Questions recommended approval of the Secretary-General's proposals. The General Assembly, in its resolution 53/214, approved the recommendations of the Advisory Committee and on that basis, the increase in the level of the education grant (including for disabled children) effective 1 January 1999, applicable to staff in the Professional and higher categories approved by the General Assembly in section II of its resolution 53/209 of 18 December 1998, was also extended, under the same conditions, to the members of the Court as from the school year in progress on 1 January 1999. The Secretary-General proposed that, further to resolution 45/250 C, the increase in the level of the education grant (including that for disabled children) effective 1 January 2001, applicable to staff in the Professional and higher categories approved by the Assembly in section I.E of its resolution 55/223 of 23 December 2000, should be extended, under the same conditions, to the members of the Court, the judges of ICTY and the judges of ICTR as from the school year in progress on 1 January 2001. In paragraph 6 of its report (A/56/Add.2), the Advisory Committee recommended approval of the Secretary-General's proposals. The Assembly, in its resolution 56/285, endorsed the Committee's recommendations and on that basis, the increase in the level of the education grant (including for disabled children) effective 1 January 2001, applicable to staff in the Professional and higher categories approved by the General Assembly in section I.E of its resolution 55/223, was also extended, under the same conditions, to the members of the Court, as from the school year in progress on 1 January 2001.

Travel and subsistence regulations

28. The General Assembly, in its resolution 37/240 of 21 December 1982, approved the travel and subsistence regulations of ICJ. In section VIII, paragraph 5, of its resolution 53/214 the Assembly also approved the travel and subsistence

regulations of the judges of the Tribunals contained in annex III to the report of the Secretary-General (A/52/520).

29. In 2001, the Secretary-General pointed out that, as a result of the action taken by the General Assembly in section I.E of its resolution 44/198 of 21 December 1989, the entitlement under the installation grant was discontinued and replaced by the introduction of the assignment grant (effective as from 1 July 1990). In the light of a number of questions of interpretation concerning the entitlement to installation grant provisions, especially as they apply to the judges of ICTR, the Secretary-General proposed and the Advisory Committee on Administrative and Budgetary Questions recommended that the language contained under the travel and subsistence regulations applicable to the members of the Court and the Tribunals, respectively, be updated and that the reference to the "installation grant" be revised to make reference to the "assignment grant" provisions applicable to senior officials of the Secretariat of the United Nations. The General Assembly accepted this recommendation in its resolution 56/285.

Health insurance

30. With regard to participation of the members of ICJ in the Organization's health plan and the Organization's contribution to the charges to sustain participation therein in a manner comparable to the health contributions made by the United Nations for other such officials, the Secretary-General, in paragraph 27 of his report to the General Assembly at its fifty-sixth session (A/C.5/56/14), reiterated the view that, while the Secretary-General and the two full-time members of the International Civil Service Commission and the Chairman of the Advisory Committee on Administrative and Budgetary Questions were participants in the Headquarters health plan, the Organization did not contribute to the cost of participation. Members of ICJ had the option of enrolling in the Delta Lloyd health insurance plan and were responsible for payment of the full cost of the premium.

31. With regard to the participation of members of the Court in health insurance plans of the United Nations system, the Advisory Committee on Administrative and Budgetary Questions, in paragraph 8 of its report (A/56/7/Add.2), reiterated its view that the members of ICJ should cover the total cost of their participation in the health insurance plans and that the Organization should not have to contribute at all to the cost of their participation.

Pensions

32. The members of ICJ are entitled to retirement pensions in accordance with article 32, paragraph 7, of the Statute of the Court, the specific conditions of which are governed by regulations adopted by the General Assembly.

33. A review of the pension benefits and the corollary aspects of the pension scheme were presented in the report of the Secretary-General to the forty-eighth, forty-ninth, fiftieth and fifty-third sessions of the General Assembly (A/C.5/48/66, paras. 32-41; A/C.5/49/8, paras. 6-16; A/C.5/50/18, paras. 25-28; and A/C.5/53/11, paras. 33-38).

34. During the fifty-third session of the General Assembly, in response to the Assembly's request, the Secretary-General provided in his report (A/C.5/53/11) an actuarial analysis covering the design of the pension scheme, the methodology used

to determine pensionable remuneration, contributory participation and retirement benefits, including early retirement and surviving spouse pension benefits.

35. Based on the analysis and findings of a consulting actuary's report, the Secretary-General believed that the pension scheme for the members of ICJ should provide adequate after-service benefits to judges having met the requisite eligibility criteria relating to retirement age and period of service based on the premise that the pension benefit maintains a standard of living as replacement income.

36. Based on the consulting actuary's recommendations vis-à-vis the pension scheme for the members of the Court, the Secretary-General recommended, in paragraph 40, that:

(a) The pensionable remuneration or, retirement pension, of a judge should be defined as being equal to half the annual salary;

(b) The pension benefit should constitute the retirement pension of a judge who completes a nine-year term, with a proportional reduction for a judge who has not completed a full term. A judge who is re-elected should receive one three hundredth of his pension benefit for each further month of service, up to a maximum pension of two thirds of annual salary;

(c) The pension scheme should be non-contributory;

(d) An actuarial reduction factor at a rate of one half of one per cent per month should be applied in a case of early retirement;

(e) Surviving spouses should receive a pension equal to 60 per cent of a judge's pension; alternatively, judges could opt to increase a spouse's pension up to a maximum of a further 50 per cent by means of an actuarial reduction in their pension;

(f) Upon remarriage, a surviving spouse should be granted a lump sum equal to twice the amount of the spouse's current annual benefit as a final settlement.

37. However, in order to avoid a disproportionate increase in pension, the Secretary-General proposed that the recommendation to base the retirement pension at half the annual salary should be implemented in two stages; half to come into force as of 1 January 1999 and half as of 1 January 2000.

38. The Advisory Committee on Administrative and Budgetary Questions, in paragraphs 15 to 17 of its report (A/53/7/Add.6), agreed with the recommendations made by the Secretary-General in paragraph 40 (a), (c), (d) and (f) of his report (A/C.5/53/11) concerning revisions to the pension scheme regulations of the members of ICJ. However, as for the recommendation contained in paragraph 40 (b), the Committee recommended a proportional reduction for a judge who had not completed a full nine-year term, and also recommended no increase in pension for service beyond nine years. With regard to paragraph 40 (e), the Advisory Committee recommended that the 50 per cent basis also be applied to surviving spouses' pensions. Concerning the implementation of the revised retirement pension, the Advisory Committee was of the opinion that it would be more desirable to implement the Secretary-General's recommendation in three stages instead of two: the first one, effective 1 January 1999, would increase the pension benefit by 20 per cent to $60,000; the second one, effective 1 January 2000, would increase the

level another 16.7 per cent to $70,000; and the last one, effective 1 January 2001, would increase the level by a further 14.3 per cent to $80,000.

39. In paragraphs 18 to 21 of its report (A/53/7/Add.6), the Advisory Committee recommended that the pension benefit would be based on half the annual salary of $160,000, i.e. $80,000. Under the circumstances, the Advisory Committee did not believe that it was necessary to continue affecting pension benefits for judicial service in excess of nine years, especially since the Court pension scheme was non-contributory, and recommended that, henceforth, there no longer be an increase in the pension benefit for re-elected judges. The Advisory Committee also recommended that pensions in payment be automatically revised by the same percentage and at the same data as salary adjustments. If the General Assembly were to accept the latter recommendation, a revision of article 7, paragraph 2, of the pension scheme regulations for members of ICJ would be required.

40. The General Assembly, in section VIII, paragraph 1, of resolution 53/214, approved the recommendations of the Advisory Committee on the emoluments, pensions and other conditions of service of the members of ICJ. In paragraph 2 of the same resolution, the Assembly concurred with the observation made by the Advisory Committee in paragraph 21 of its report (A/53/7/Add.6), regarding a revision to article 7, paragraph 2, of the pension scheme regulations for members of ICJ to read as follows: "Pensions in payment shall be automatically revised by the same percentage and at the same date as salary adjustments."

41. On the occasion of the most recent review, in 2001, the Registrar of ICJ provided the Secretariat with a table listing pensions in payment and observed that pensions are disproportionate for retired members of the Court and/or surviving spouse. In order to rectify this inequity and to have all former members of the Court treated equally, the Court opined that pensions in payment should ideally be aligned with pensions under the present regime. However, the Advisory Committee in its 1998 report (A/53/7/Add.6), considered that such an alignment would not be advisable because it would entail considerable expense for the United Nations. In view of this, the Court did not ask for alignment of pension stricto sensu. However, concerned as it was by the level of pension payments to former members, the Court suggested that steps could be taken to remedy this disparity in payments by an increase, to the extent possible, in pension payments to its former members.

42. In this regard, it was the view of the Secretary-General that, as the General Assembly was the sole authority to determine the conditions of service and pension benefits of ICJ, the issue of pensions in payment be brought to the attention of the Assembly for its consideration. In paragraph 10 of its report (A/56/7/Add.2), the Advisory Committee pointed out that a pension entitlement was established at the time of retirement and based on the conditions of service in effect at that time. Moreover, the Advisory Committee recalled that it had recommended and the Assembly had approved a recommendation that pensions in payment be automatically revised by the same percentage and at the same date as salary adjustments; the Committee was of the view that that recommendation continued to provide the necessary protection for pensions in payment against an increase in the cost of living.

43. In his report (A/C.5/57/36), the Secretary-General drew the attention of the General Assembly to the fact that under the pension scheme regulations applicable to the members of ICJ, the judges of ICTY and the judges of ICTR, there was no

provision that would bar payment of a retirement pension to judges who have previously served in any one of those organs while serving as judges of another of those organs. Based on the recommendation of the Advisory Committee, the Assembly, in its resolution 58/264 of 23 December 2003, decided to amend article 1 of the pension scheme regulations for the members of ICJ. Accordingly, paragraph 7 of article 1 of the pension scheme regulations specifies that no retirement pension shall be payable to a former member who has been elected or appointed a permanent judge of ICTY or ICTR or who has been appointed to serve in ICTY or ICTR as an ad litem judge until he or she ceases to hold office or appointment.

44. The Registrar of the Court wrote to the Secretariat in April 2004 in relation to pensions received by former judges or surviving spouses, to express concerns with respect to the level of pensions for judges and surviving spouses, as follows.

"In relation to pensions received by former judges or surviving spouse, I should like to address both the revision of the pensioners' entitlement following an increase in the emoluments of the members of the Court, and also the question of the protection of pensions against currency fluctuations.

"Firstly, dealing with the level of pensions, I draw your attention to article VII, paragraph 2, of the pension scheme regulations for members of ICJ, which provides that 'pensions in payment shall be automatically revised by the same percentage and at the same date as salary adjustments'. Therefore any increase in emoluments of members of the Court should automatically lead to an increase by the same percentage in all pensions.

"Secondly, turning to the issue of the impact of currency fluctuations, it should be noted that, unlike any other pension scheme, pensions for judges and surviving spouse are not protected in value. Pensions are set in United States dollars and, in the event of a conversion to the currency of the country of payment or residence of the judges or surviving spouse, drastic deterioration in value often results both in Europe and other non-United States dollar zones.

"The easiest and most optimum solution to the problem of protecting pensions paid outside the United States dollar zone would appear to be the application of an appropriate floor/ceiling methodology, as is currently used in relation to emoluments. However, for those pensioners who elect to be paid in United States dollars, the application of this methodology would be potentially detrimental because if the ceiling rate of exchange were to be reached, payments in dollars would be reduced. Consequently, for those pensioners residing in the United States dollar zone or holding their bank account in the United States, the application of the ceiling in the pensions context would be inappropriate and therefore should not be applied to these pensioners.

"In the light of the above, alternate means of protecting the value of pensions may be envisaged, such as:

(a) The extension of an appropriate floor/ceiling mechanism to the currency either of the pensioner's country of residence or of the country where pension remittances are sent;

(b) The introduction of the option for a pensioner to elect, once and for all at the date of the initial pension entitlement, to receive all future pension entitlements fixed in local currency or United States dollars (for pensions paid

now or in the future in the euro zone the fixed rate could be the euro rate of exchange at the date of introduction of the euro);

(c) The application of the two-track system, currently used in respect of the United Nations Joint Staff Pension Fund;

(d) In the euro zone, the option, [...], to be paid the same figure either in euro or in dollars [...]."

III. Judges of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the ad litem judges

A. Judges of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda

1. Introduction

Background

45. By its resolution 827 (1993) of 25 May 1993, the Security Council decided to establish ICTY and adopted its Statute. Article 13, paragraph 4, of the Statute of the Tribunal provides that the terms and conditions of service shall be those of the judges of ICJ. By its resolution 955 (1994) of 8 November 1994, the Security Council decided to establish ICTR and adopted its Statute. Article 12, paragraph 5, of the Statute of ICTR provides that the terms and conditions of service shall be those of the judges of ICTY.

46. In his report to the General Assembly at its fifty-third session (A/C.5/53/11), the Secretary-General made proposals for revised salaries and revised pensions for the members of ICJ, and corresponding revisions to the salaries and pensions of the judges of the Tribunals in the light of what the Assembly might determine for the members of ICJ. The Assembly also had before it the report of the Secretary-General on the conditions of service for the judges of the two Tribunals that had been presented to the Assembly (A/52/520).

47. In section VIII, paragraph 4, of its resolution 53/214, the General Assembly approved the recommendations of the Advisory Committee on Administrative and Budgetary Questions on the emoluments, pensions and other conditions of service of the judges of ICTY and the judges of ICTR.

48. In paragraph 1 of its resolution 56/285, the General Assembly endorsed the observations and recommendations of the Advisory Committee contained in its report (A/56/7/Add.2) with regard to the emolument, the special allowance of the President and the Vice-President when acting as President, the education grant, pensions and other conditions of service of the members of ICJ, and the judges of ICTY, the judges of ICTR and the ad litem judges of ICTY, without prejudice to the existing rules governing the conditions of service of the judges of the Tribunals.

2. Remuneration

49. As a result of the action taken by the General Assembly in paragraph 1 of its resolution 56/285, the annual salary of the judges of ICTY and the judges of ICTR was maintained at $160,000 per annum.

3. Other conditions of service

50. As indicated above, the General Assembly, in section VIII, paragraph 4, of its resolution 53/214, approved the recommendations of the Advisory Committee on Administrative and Budgetary Questions on, inter alia, the other conditions of service of the judges of the two Tribunals. The background on other conditions of service of the judges is provided in the report of the Secretary-General to the General Assembly at its fifty-second session (A/52/520, paras. 19-21). These other conditions of service included: the special allowance of the President and the Vice-President when acting as President, educational allowance, retirement benefits and travel and subsistence regulations.

Special allowance of the President and the Vice-President when acting as President

51. The special allowance of the President of ICTY and the President of ICTR was set at $15,000 per annum. The special allowance for the Vice-President of ICTY and the Vice-President of ICTR was set at $94 per day up to a maximum of $9,400 per year.

Assistance with education costs

52. The General Assembly, in its resolution 56/285, concurred with the recommendations of the Advisory Committee on Administrative and Budgetary Questions concerning updating the levels of the education grant for the members of ICJ and on that basis, the increase in the level of the education grant (including for disabled children) effective 1 January 2001, applicable to staff in the Professional and higher categories approved by the General Assembly in section I.E of its resolution 55/223, was also extended, under the same conditions, to the members of the Court and the judges of the two Tribunals, as from the school year in progress on 1 January 2001.

Travel and subsistence regulations

53. In its resolution 53/214, the General Assembly approved the travel and subsistence regulations for the judges of the Tribunals contained in annex III to the report of the Secretary-General (A/52/520). As indicated above, based on the recommendation of the Advisory Committee on Administrative and Budgetary Questions, the General Assembly in its resolution 56/285, agreed that the language contained under the travel and subsistence regulations applicable to the judges of the Tribunals be updated and that the reference to "installation grant" be revised to make reference to the "assignment grant" provisions applicable to senior officials of the Secretariat of the United Nations.

Survivors' benefit

54. Concerning the establishment of a survivors' lump-sum benefit in the event of the death of serving judges of ICTY and the judges of ICTR, based on its consideration of the note by the Secretary-General of 18 November 1999 (A/C.5/54/30), the General Assembly, in paragraph 7 of its resolution 54/240 A of 23 December 1999, approved the recommendations of the Advisory Committee on Administrative and Budgetary Questions and established a lump-sum benefit whereby survivors would be compensated in the form of a lump sum equivalent to one month of base salary for each year of service, subject to a minimum of one month and a maximum of four months.

Health insurance

55. The Secretary-General notes that the Organization has made provisions for the judges of the Tribunals, upon their appointment, to participate in an appropriate United Nations medical insurance plan in accordance with the relevant administrative rules and procedures, at full premium.

Issues related to the hardship classification of the duty station

56. On the occasion of the most recent periodic review, undertaken in 2001, the President of ICTR recalled that the Statute of ICTR provided in article 12, paragraph 5, that the terms and conditions of service for the judges of ICTR should be those of the judges of ICTY. This is a general principle that does not exclude that there is a difference between duty stations of the judges of the two Tribunals.

57. She further specified that, unlike their colleagues from ICTY, the judges of ICTR were working in Arusha, which had been officially recognized as a "hardship C" duty station, where home leave entitlement for staff of the Tribunal was once every 12 months. Consequently, it would seem logical since the cycle of home leave normally reflected the hardship factor at the duty station that the hardship factor should be made applicable to the judges' home leave.

58. In paragraph 9 of its report (A/56/7/Add.2), the Advisory Committee on Administrative and Budgetary Questions indicated that it had no objection to the proposed change in the home leave travel of the judges of ICTR to take account of the hardship classification of the duty station. The General Assembly, in its resolution 56/285, concurred with the recommendation of the Advisory Committee.

Pensions

59. In paragraphs 63 and 64 of his report (A/C.5/53/11), the Secretary-General referred to the terms and conditions of service of the judges of ICTY, which, according to article 13, paragraph 4, of the Statute of the Tribunal, were those of the judges of ICJ, and those of ICTR, which according to article 12, paragraph 5, were those of ICTY.

60. In paragraph 29 of its report (A/53/7/Add.6), the Advisory Committee on Administrative and Budgetary Questions recommended that the pension benefit for the judges of ICTY and ICTR be based on that applicable to the judges of ICJ, prorated to account for the difference in length in the terms of appointment, namely, nine years for the members of ICJ and four years for the judges of the two Tribunals. On this basis, and using the phase-in formula the Advisory Committee

had recommended for the judges of ICJ, the retirement allowance for judges of the two Tribunals having served a full four-year term, would rise to $35,500 by 1 January 2001 for judges who had served a full four-year term.

61. The General Assembly, in section VIII, paragraph 4, of resolution 53/214, approved the recommendations of the Advisory Committee on the emoluments, pensions and other conditions of service of the judges of the two Tribunals. In paragraph 6 of the same resolution, the Assembly approved the pension scheme regulations for the judges of ICTY and the pension scheme regulations for the judges of ICTR contained in annexes IV and V, respectively, to the report of the Secretary-General (A/52/520), with consequential modifications resulting from the decisions taken by the Assembly in the resolution.

62. On the occasion of the most recent comprehensive review, conducted in 2001, the Secretary-General, in paragraphs 60 to 67 of his report (A/C.5/56/14) shared the concerns that had been expressed by the judges of ICTY regarding the pension scheme regulations approved by the General Assembly at its fifty-third session. The Advisory Committee noted the Secretary-General's view that the existing disparity between the pension benefits of the judges of ICTY and those of the members of ICJ should be brought to the attention of the Assembly. The Advisory Committee observed that the Assembly had approved a pension scheme for the judges of the Tribunals based on its previous recommendations whereby the Committee had recommended that the pension benefits of the judges of the Tribunals be based on those applicable to the judges of ICJ, prorated to account for the difference in the length of the term of appointment, namely, nine years for the members of the Court versus four years for the judges of the Tribunals. The Advisory Committee reiterated its view on this matter and therefore did not recommend any change in the current arrangement with regard to the pension benefits of judges of the two Tribunals.

63. ICTY has requested that the concerns that had been expressed by the judges of the Tribunals regarding the pension scheme regulations on the occasion of the most recent review be brought once again to the attention of the General Assembly. Accordingly, some of the salient arguments set out in the Secretary-General's report (A/C.5/56/14) are repeated below, as follows:

> "65. ...
>
> "It appears that, contrary to the provisions of the Statute of ICTY, a significant disparity exists between the conditions of service of the judges of the International Tribunal and those of the judges of ICJ in respect of pensions. ... Judges are elected to the International Tribunal pursuant to Security Council resolution 827 (1993), adopted on 25 May 1993. Article 13 bis (3) of the Tribunal's Statute, adopted pursuant to that resolution and as amended by Security Council resolution 1329 (2000) of 30 November 2000, provides: 'The permanent judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of judges of the International Court of Justice. They shall be eligible for re-election.'
>
> "It seems that the problem has arisen because the scheme devised to take account of the comparison between the pension of ICTY and ICJ judges gives undue weight to the length of their respective terms as distinct from their

actual years of service. But pension rights should be a function of the actual years of service of a judge, irrespective of whether some of that service is performed in a second, third or fourth term of office.

"The judges believe that there is no need for a mathematical formula to re-establish parity and to determine the pension of an ICTY judge. What is needed is an approach that recognizes, firstly, that pension is a function, not of the length of a judge's terms of service, but of a judge's actual years of service, irrespective of whether that service is performed in the first, second, third or fourth term, and secondly, that there is a continuum in service performed over more than one term.

"66. Accordingly, the President of ICTY would propose the following formulation for consideration:

(a) The pension of an ICTY judge shall be that of an ICJ judge with the same years of service as ICTY judges;

(b) If a judge has been re-elected, his or her pension benefit shall be equivalent to the pension benefit a judge of ICJ would receive for the same amount of actual time spent in service.

"67. ...

"What has been done in this formulation is that a statement of principle has been added to the proposal made by the former Registrar of the International Tribunal. ... The provisions of article 1(2) of annex II contained in the Secretary-General's report (A/52/520), which deals with ICJ pensions after nine years of service, could also apply to ICTY judges but only after nine years of service. This would contribute to ensuring parity and substantial equality in the way both groups of judges are considered."

64. With regerd to the points raised by ICTY concerning pension benefits of the judges of the Tribunal, the Secretary-General observed once again that the General Assembly approved a pension scheme for the judges of the Tribunals based on the recommendations contained in paragraph 29 of the Advisory Committee report (A/53/7/Add.6), whereby the Advisory Committee recommended the pension benefit for the judges of the Tribunals be based on that applicable to the judges of ICJ, prorated to account for the difference in length in the terms of appointment, that is to say, nine years for the members of ICJ versus four years for the judges of both Tribunals. It was the Secretary-General's view that, as the General Assembly was the sole authority to determine the conditions of service and the pension benefits of the judges of the Tribunals, that the existing disparity between the pension benefits of ICTY judges and that of the judges of ICJ, be brought once again to the attention of the General Assembly for its consideration, in the light of the arguments put forward by the former Registrar and by the Registrar and the President.

65. As indicated above, in his report (A/C.5/57/36), the Secretary-General drew the attention of the General Assembly to the fact that under the pension scheme regulations applicable to the members of ICJ and the judges of the Tribunals, there was no provision that would bar payment of a retirement pension to judges who had previously served in any one of those organs while serving as judges of another of those organs. Based on the recommendation of the Advisory Committee on

Administrative and Budgetary Questions, the General Assembly, in its resolution 58/264, decided to amend article 1 of the pension scheme regulations of the judges of ICTY and the judges of ICTR, respectively. Accordingly, paragraph 5 of article 1 of the Pension Scheme Regulations of the judges of ICTY specifies that no retirement pension shall be payable to a former judge who has been elected a member of ICJ or who has been elected or appointed a permanent judge of ICTR or who has been appointed to serve in ICTY or ICTR as an ad litem judge until he or she ceases to hold office or appointment. Paragraph 5 of article 1 of the pension scheme regulations of the judges of ICTR specifies that no retirement pension shall be payable to a former judge who has been elected a member of ICJ or who has been elected or appointed a permanent judge of ICTY or who has been appointed to serve in ICTY or ICTR as an ad litem judge until he or she ceases to hold office or appointment.

B. Ad litem judges

1. Introduction

66. In his report to the General Assembly on the financing of ICTY (A/55/517), the Secretary-General indicated that, since its inception, the Tribunal had undergone rapid and continuous expansion. Accordingly, it was proposed to expand the trial capacity of the Tribunal by introducing the use of ad litem judges, as part of the medium and longer term measures designed to improve the operations of ICTY. The proposals were based on the study on the operation of the Tribunal, submitted as part of the report on the operation of ICTY (A/55/382-S/2000/865).

Background

67. The Security Council, acting under Chapter VII of the Charter of the United Nations, by its resolution 1329 (2000) of 30 November 2000, decided to establish a pool of ad litem judges in ICTY and to enlarge the membership of the Appeals Chambers of both ICTY and ICTR. The Security Council also decided to amend articles 12, 13 and 14 of the Statute of ICTY and articles 11, 12 and 13 of the Statute of ICTR. The Statute of ICTR was not amended to include a provision for the utilization of ad litem judges.

68. Under the new article 12 of the Statute of ICTY, Composition of the Chambers, the Chambers shall be composed of 16 (previously 14) permanent independent judges and a maximum at any one time of 9 ad litem independent judges (previously none). The article also stipulates that seven of the permanent judges shall be members of the Appeals Chamber. The revised article 14, Officers and members of the Chambers, includes provisions to the effect that two of the judges to be elected or appointed in accordance with article 12 of the Statute of ICTR will be members of the Appeals Chamber. Under article 13 ter, after the Secretary-General invites nominations and the Security Council establishes a list of not less than 54 candidates, the General Assembly shall elect 27 ad litem judges of the Tribunal for a term of four years. Ad litem judges may be appointed by the Secretary-General upon the request of the President of the Tribunal, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including, three years.

69. The General Assembly, in its resolution 55/225 A, took note also of Security Council resolution 1329 (2000) concerning the establishment of a pool of ad litem judges in ICTY, and in paragraph 8 of the same resolution decided to revert, at its resumed fifty-fifth session, to the consideration of resource requirements for the implementation of modifications to the Statute of the Tribunal, without prejudice to the nomination and election of the ad litem judges.

2. Conditions of service

70. Further to General Assembly resolution 55/225 A, with respect to the request of the Advisory Committee regarding the conditions of service of the ad litem judges, the Secretary-General submitted his report (A/55/756), on the conditions of service of the ad litem judges of ICTY.

71. Under paragraphs 1 (e) and 2 of article 13 ter of the Statute of ICTY ad litem judges shall be elected for a term of four years and they shall not be eligible for re-election. During their term, ad litem judges will be appointed by the Secretary-General, upon the request of the President of the Tribunal, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including, three years.

72. Paragraph 1 (a) of article 13 quater of the Statute of the Tribunal specifies that during the period in which they are appointed to serve in the Tribunal, ad litem judges shall benefit from the same terms and conditions of service mutatis mutandis as the permanent judges of the Tribunal. However, ad litem judges would be entitled to receive benefits only once they have been appointed to serve on one or more trials and, if they are so appointed, they would be so entitled only for as long as and in respect of the period that they are so appointed.

73. The General Assembly, in section VIII of its resolution 53/214, approved revisions in the emoluments of the members of ICJ and the judges of the Tribunals with effect as from 1 January 1999. The Secretary-General thus proposed that the conditions of service approved by the Assembly for the judges of the Tribunals and the travel and subsistence regulations for the judges of the Tribunals contained in annex III to document A/52/520 be applied to the ad litem judges.

74. Accordingly, the Secretary-General proposed the following conditions of service to be applicable to ad litem judges:

(a) *Emoluments*. With regard to emoluments:

(i) Ad litem judges would receive an annual salary of $160,000, prorated for length of service;

(ii) The floor/ceiling measures that were applicable to the members of ICJ and judges of ICTY would also apply to the emoluments of ad litem judges serving at The Hague;

(b) *Travel costs and subsistence benefits*. Ad litem judges would be entitled to payment of travel expenses and subsistence benefits as set forth in the travel and subsistence regulations for judges of ICTY and the judges of ICTR contained in annex III to document A/52/520;

(c) *Education allowance*. Ad litem judges would be entitled to an education allowance in accordance with the provisions contained in section II of General Assembly resolution 53/209;

(d) *Survivors' lump-sum benefit*. In the event of death of an ad litem judge, survivors would be compensated in the form of a lump-sum payment equivalent to one month of base salary for each year of service, subject to a minimum of one month and a maximum of three months;

(e) *General conditions*. The following general conditions would apply to ad litem judges. Ad litem judges might not exercise any political or administrative function, or engage in any other occupation of a professional nature, during his or her appointment in office. The entitlements and allowances listed above would be conditional on the residence of the ad litem judge at The Hague;

(f) *Medical insurance*. Ad litem judges, for the duration of their appointment, might participate in the medical insurance plan appropriate to their duty station under the same conditions applicable to the judges of the Tribunals.

75. The Secretary-General further recommended that ad litem judges should not be entitled to pension benefits. He further specified that a judge who had retired from either of the Tribunals or ICJ and was the recipient of a pension therefrom, would not continue to receive that pension during the time he or she served as an ad litem judge. Any period of service as an ad litem judge would not be counted towards and added for years of qualifying service that a judge might have with either of the Tribunals or ICJ for pension purposes.

76. Concerning the establishment of disability benefits for ad litem judges, it was recognized by the Organization that there was a need to take care of disability payment in respect of a service period. Therefore, it was proposed that should an ad litem judge be found unable to perform his or her duties because of ill health or disability, he or she would be entitled to receive payment of his or her salary for the service period. There would be no liability beyond that period.

77. By virtue of the limitation on their length of appointment, and taking into account the conditions applied to the permanent judges, ad litem judges would not be eligible for payment of relocation allowance.

78. The General Assembly was requested to consider the approval of the conditions of service for ad litem judges as proposed by the Secretary-General in paragraphs 18 to 25 of his report (A/55/756).

79. The Advisory Committee on Administrative and Budgetary Questions, in paragraph 7 of its report (A/55/806), drew attention to the fact that judges of ICJ were elected for a term of nine years and might be re-elected, and judges of the Tribunals were elected for a term of four years and might be re-elected. On the other hand, the service of the ad litem judges was of a much more temporary nature and could be intermittent. This essential difference was taken into account by the Advisory Committee in evaluating the necessity of a number of the entitlements and allowances proposed in the report of the Secretary-General.

80. Accordingly, the Advisory Committee agreed with the Secretary-General's proposals concerning the annual salary of $160,000, prorated for length of service and with application of the floor/ceiling measures, the proposal to extend the travel and subsistence regulations in effect for the judges of the Tribunals be applied to the

ad litem judges, and with the proposal to provide disability benefits limited to injury or illness attributable to service with the Tribunals.

81. The General Assembly, in its resolution 55/249 of 12 April 2001, endorsed the observations and recommendations of the Advisory Committee contained in its report (A/55/806, paras. 7-15), on the emoluments, travel and subsistence regulations and disability payments for the ad litem judges of ICTY.

82. The Security Council, in its resolution 1431 (2002) of 14 August 2002, decided to establish a pool of ad litem judges in ICTR. In his report (A/57/587), the Secretary-General proposed to establish conditions of service applicable to the ad litem judges of ICTR based on the provisions of General Assembly resolution 56/285, on the emoluments and other conditions of service of the members of ICJ and the judges of the Tribunals as well as the ad litem judges of ICTY.

83. The General Assembly, in its resolution 57/289, endorsed the observations and recommendations of the Advisory Committee contained in its report (A/57/593, para. 23) on the conditions of service for the ad litem judges of ICTR.

IV. Review and recommendations

A. Remuneration

84. In reviewing the level of annual remuneration, it is recalled that the emoluments of the members of the Court and the judges of the Tribunals have remained at $160,000 since January 1999. No revision in the level of salaries was sought in the 2001 triennial review of the conditions of service.

85. According to the Netherlands Central Bureau of Statistics, the movement in the consumer price index for the Netherlands for the period from January 1999 to May 2004 increased by 17.4 per cent. As indicated in paragraphs 10 to 18 above, over the period from January 2002 to July 2004, the United States dollar lost, on average, 26.8 per cent against the euro. As indicated above, for 2004, the floor rate was frozen at the 2003 level. If this step had not been taken, the floor would have been set at 11,420 euros (based on the 2003 average rate of exchange of 0.85656), which is lower than the floor in 1999. As a result of the application of the floor/ceiling mechanism, the members of the Court and the judges of ICTY received emolument at the floor rate of exchange for the past 24 months whereas for the three-year period from 1 January 1999 to December 2001, the floor was payable for only one month.

86. For purposes of information, it is also recalled that the General Assembly, in its resolution 57/285, decided to approve, effective 1 January 2003, an increase in the salary scales for certain grades of the Professional and higher categories. As a result, the base salaries of staff at the D-2 level, staff at the Assistant Secretaries-General and Under-Secretaries-General level were increased by 6.3 per cent, respectively. In addition, it is recalled that, in its resolution 58/266 of 23 December 2003, the General Assembly also approved an increase of 6.3 per cent in the annual net remuneration of the two full-time members of the International Civil Service Commission and the Chairman of the Advisory Committee on Administrative and Budgetary Questions were also increased by 6.3 per cent, effective 1 September 2003.

87. With regard to the level of salaries, the Court has pointed out that although members of the Court are required by article 2 of the Statute of the Court to possess the qualifications required in their respective countries for appointment to the highest judicial offices, their remuneration is lower than that provided by the main national judiciaries. In addition, the Registry of the Court has recalled the fact that the salaries awarded by the other comparable international judicial organ also based in The Hague, namely, the International Criminal Court, where the salaries of judges are set at 180,000 euros annually.

88. In real terms, the emoluments of the members of ICJ overall have not kept pace with increases in the cost of living in the Netherlands. While the application of the floor/ceiling mechanism at the 2003 rates provided significant protection against the weakening of the United States dollar vis-à-vis the euro, it did not provide total protection and, in real terms, the salaries of the judges lost 4.35 per cent. In addition, as mentioned above, the base salaries of staff at the Under-Secretaries-General level were increased by 6.3 per cent. Accordingly, the Member States may wish to consider increasing the annual emoluments of the members of the Court, the judges of ICTY, the judges of ICTR and the ad litem judges from $160,000 to $177,000. This would represent an increase of 10.6 per cent.

89. The Secretary-General would also note that the mechanism used to regulate emoluments against the weakening/strengthening of the United States dollar against the euro was able, through the exercising of some flexibility, to provide adequate protection in the value of the level of salary of the judges over the last three-year period. Accordingly, it is proposed that the same floor/ceiling mechanism continue to be applied to the emoluments of the judges. In this regard however, it should be noted that there will only be an actual increase in emoluments if the floor/ceiling rates are maintained at the present rates. For the first seven months of 2004, the average exchange rate has been 0.816. If this average were to continue, the floor/ceiling rates would be set at 0.783 and 0.8484 for 2005. On the basis of these rates, even with an increase in emoluments to $177,000, the minimum monthly emolument a judge would receive would be 11,550 euros and the maximum would be 12,513 euros, and consequently there would be a decrease in monthly emoluments.

B. Other conditions of service

Education costs

90. Subsequent to the 2002 review of the level of the education grant by the International Civil Service Commission, the General Assembly, by section I.E of its resolution 57/285, approved the following increases in the maximum reimbursement levels in six countries/currency areas, as well as other adjustments to the management of the reimbursement of expenses under the education grant, effective as from the school year in progress on 1 January 2003, as recommended by the Commission in paragraphs 141 to 143 of its report to the Assembly at its fifty-seventh session (A/57/30).

Table 2
Education grant

Country/currency area	*Maximum admissible educational expenses (local currency)*[a]	*Maximum grant (local currency)*
Austria (euro)	13 618	10 214
Switzerland (Swiss franc)	25 347	19 010
Spain (euro)	10 586	7 940
United Kingdom of Great Britain and Northern Ireland (pounds sterling)	15 900	11 925
Italy (euro)	13 518	10 138
United States dollar (inside the United States of America)	25 743	19 307
United States dollar (outside the United States of America)	14 820	11 115

[a] The amount of the special education grant for each disabled child is equal to 100 per cent of the revised amount of maximum admissible educational expenses for the regular education grant. In areas where education-related expenses are reimbursed in other currencies, the amounts remained unchanged.

91. The Secretary-General would propose that, further to General Assembly resolution 45/250 C, the increase in the level of education grant (including that for disabled children) effective 1 January 2003, applicable to staff in the Professional and higher categories approved by the Assembly in section I.E of resolution 57/285, should be extended, under the same conditions, to the members of the Court and the judges of the Tribunals as from the school year in progress on 1 January 2003.

92. The International Civil Service Commission will next review the education grant in 2004. The Secretary-General would recommend that any decision taken by the General Assembly at its fifty-ninth session to update the levels of the education grant or changes in the provisions regarding disabled children should be extended to the members of the Court. The programme budget implications of the proposed change are discussed in paragraph 98 below.

93. In accordance with paragraph 7 of the seventh report of the Advisory Committee to the General Assembly at its forty-eighth session (A/48/7/Add.6), the next review of the costs of educating children of the members of ICJ will be conducted at the time of the next comprehensive review of the conditions of service.

Retirement benefits

94. Based on the decision of the General Assembly contained in section VIII of its resolution 53/214 to set the retirement pension for the members of ICJ at half the annual salary, the annual retirement benefit of a member of the Court retiring in 2005 would increase from $80,000 per annum to $88,500 with effect from 1 January 2005. The annual retirement benefit of judges of the Tribunals retiring in 2005 would also increase from $35,500 per annum to $39,272, effective 1 January 2005.

95. Based on the proposed increase in the base salary of the members of ICJ, it is recommended that pensions in payment be increased by 10.6 per cent, effective 1 January 2005. As outlined in paragraph 44 above, ICJ, which is concerned by the

effect of the devaluation of the United States dollar vis-à-vis the euro on the level of pension payments to former members, would appreciate it if steps could be taken to remedy this disparity in payments by an increase, to the extent possible, in pension payments to former members. It is the Secretary-General's view that consideration should be given to applying the floor/ceiling mechanism to pensions in payment to former judges and their survivors who reside in the euro zone countries to protect the level of pensions from further erosion.

Ad hoc judges

96. The Secretary-General proposes that no change be effected in the arrangements for ad hoc judges on the occasion of this periodic review.

Ad litem judges

97. The Secretary-General proposes that any increase in the annual emoluments decided upon for the members of the Court and the judges of the Tribunals also be extended to the ad litem judges of the Tribunals, effective 1 January 2005.

V. Financial implications

98. **Should the General Assembly approve the proposals contained in paragraphs 88, 91, 92, 94 and 95 above relating to an increase in the annual salary, additional pension payments in respect of former judges and the widows of judges and, the costs of educating children of the members of the Court and the judges of the Tribunals, the programme budget implications are estimated at $2,320,600 for the biennium 2004-2005 as reflected in table 3 below. The total estimated requirements of $2,320,600 for the biennium 2004-2005, arising from these three elements are seen as relating to inflationary adjustments. Therefore, in accordance with the procedures detailed in paragraph 34 of General Assembly resolution 52/220, these additional requirements would be reported in the context of the performance report.**

Table 3

Programme budget implications of proposals contained in paragraphs 88, 91, 92, 94 and 95 of the report on the conditions of service and compensation for officials other than Secretariat officials for the biennium 2004-2005

	Additional requirements that would result from the adoption of the recommendations
Members of the International Court of Justice	
Salary (increase)	255 000
Pensions	1 156 000
Education grant	100 500
Total	**1 511 500**
Judges of the International Criminal Tribunal for the Former Yugoslavia	
Salary (increase)	391 000
Pensions	46 100
Education grant[a]	-
Total	**437 100**
Judges of the International Criminal Tribunal for Rwanda	
Salary (increase)	340 000
Pensions	32 000
Education grant[a]	-
Total	**372 000**

[a] Based on the current composition of the Tribunal, the recommendations contained in the report have no implications for the budget for 2004-2005

VI. Next comprehensive review

99. In its resolution 56/285, the General Assembly decided that the conditions of service and remuneration for the members of ICJ, the judges of ICTY, the judges of ICTR and the ad litem judges of ICTY shall next be reviewed at its fifty-ninth session. Should the General Assembly decide to continue the three-year review cycle, the next comprehensive review by the Assembly would be undertaken at its sixty-second session, in 2007.

Annex I

Changes in net remuneration of members of the Court, Secretariat officials and members of United Nations bodies, from January 2000 to January 2004

(In United States dollars, dependency rate)

	2000	*2001*	*2002*	*2003*	*2004*
International Court of Justice					
President[a]	175 000	175 000	175 000	175 000	175 000
Index	100.0	100.0	100.0	100.0	100.0
Members of the Court	160 000	160 000	160 000	160 000	160 000
Index	100.0	100.0	100.0	100.0	100.0
Senior Secretariat officials					
The Hague					
Under-Secretary-General[b]	124 989	121 334	120 606	159 378	188 520
Index	100.0	97.1	96.5	127.5	150.8
Assistant Secretary-General[c]	113 970	110 617	109 950	145 511	172 239
Index	100.0	97.1	96.5	127.7	151.1
Geneva					
Under-Secretary-General[b]	148 957	145 905	148 023	185 631	204 346
Index	100.0	98.0	99.4	124.6	137.2
Assistant Secretary-General[c]	135 953	133 153	135 096	169 589	186 755
Index	100.0	98.0	99.4	124.7	137.4
New York					
Under-Secretary-General[b]	159 004	164 631	170 548	187 766	197 312
Index	100.0	103.5	107.3	118.1	124.1
Assistant Secretary-General[c]	145 169	150 329	155 755	171 548	180 304
Index	100.0	103.6	107.3	118.2	124.2
Full-time members of subsidiary bodies					
Chairman, International Civil Service Commission/Advisory Committee on Administrative and Budgetary Questions[d]	143 692	159 691	162 685	167 266	182 189
Index	100.0	111.1	113.2	116.4	126.8
Vice-Chairman, International Civil Service Commission	135 692	149 691	152 685	157 266	172 189
Index	100.0	110.3	112.5	115.9	126.9
Members of the Joint Inspection Unit, Geneva	117 771	115 291	117 611	148 171	163 378
Index	92.2	90.3	99.9	125.8	138.7

[a] Includes a special allowance of $15,000.
[b] Includes a representation allowance of $4,000 a year.
[c] Includes a representation allowance of $3,000 a year.
[d] Includes a special allowance of $10,000 a year.

Annex II

Movement in gross emoluments of officers of national judiciaries, the Court of the European Communities, the European Court of Human Rights, the Iran-United States Claims Tribunal and the International Criminal Court, 2000-20004

	2000	2001	2002	2003	2004
United States Supreme Court					
Chief Justice					
United States dollars	181 400	186 300	192 600	198 600	201 600
Index	100.0	102.7	106.2	109.5	111.4
Associate Justice					
United States dollars	173 600	178 300	184 400	190 100	193 000
Index	100.0	102.7	106.2	109.5	111.8
Supreme Court of Canada					
Chief Justice					
Canadian dollars[a,b]	254 500[c]	254 500	270 100	270 100	278 400
United States dollars	174 315	168 543	169 874	172 038	212 519
Index	100.0	96.7	97.5	98.7	121.9
Puisne judge					
Canadian dollars[b,d]	235 700	235 700	250 200	250 200	257 800
United States dollars	161 438	156 093	157 358	159 363	196 794
Index	100.0	96.7	97.5	98.7	121.9
United Kingdom of Great Britain and Northern Ireland					
Lord Chief Justice					
Pounds sterling	165 260	171 375	177 545	200 236	205 242
United States dollars	266 548	252 022	253 636	320 891	364 551
Index	100.0	94.6	95.2	120.4	136.8
Master of the Rolls					
Pounds sterling	157 390	163 213	169 089	181 176	185 705
United States dollars	253 855	240 019	241 556	297 010	329 849
Index	100.0	94.6	95.2	117.0	129.9
Australia					
Chief Justice					
Australian dollars[e]	276 800	287 900	308 100	336 450	336 450
United States dollars	180 915	159 944	157 194	189 017	251 082
Index	100.0	88.4	86.9	104.5	138.8
Justice					
Australian dollars[e]	251 200	261 300	279 600	305 330	305 330
United States dollars	164 183	145 167	142 653	171 534	227 858
Index	100.0	88.4	86.9	104.5	138.8
Japan					
Chief Justice					
Yen	44 187 032	44 187 032	44 003 403	42 887 845	41 645 344
United States dollars	433 206	384 235	335 904	360 402	389 209

	2000	2001	2002	2003	2004
Index	100.0	88.7	77.5	83.2	89.8
Associate Judge					
Yen	32 258 067	32 258 067	32 124 012	31 305 273	30 406 524
United States dollars	316 256	280 505	245 221	263 070	276 423
Index	100.0	88.7	77.5	83.2	89.9
Court of the European Communities					
President					
Euros	235 904	241 329	250 258	255 264	266 530
United States dollars	237 089	224 555	220 298	266 455	332 747
Index	100.0	94.7	92.9	112.4	140.3
Member					
Euros	192 313	196 352	204 015	208 095	217 280
United States dollars	193 279	183 061	179 591	217 218	271 261
Index	100.0	94.7	92.9	112.4	140.3
European Court of Human Rights					
President					
Euros	167 699[f]	172 730[f]	172 730[f]	177 912[f]	190 004[f]
United States dollars	168 542	160 724	152 051	185 712	237 208
Index	100.0	95.4	90.2	110.2	140.7
Member					
Euros	167 699[f]	172 730[f]	172 730[f]	177 912[f]	177 912[f]
United States dollars	168 542	160 724	152 051	185 712	237 208
Index	100.0	95.4	90.2	110.2	140.7
Iran-United States Tribunal					
President					
United States dollars	245 000				
Index	100.0				
United States-Iranian Judge	210 000				
Index	100.0				
Third country judge	235 000				
Index	100.0				
International Criminal Court					
Member of the Court					
Euros				180 000	180 000
United States dollars				187 891	224 719
Index				100.0	119.6

[a] Also entitled to a representation allowance of $Can 10,000.
[b] Also entitled to an incidental allowance of $Can 2,500.
[c] Salary effective as from 1 April 2000.
[d] Also entitled to a representation allowance of $Can 5,000.
[e] Also entitled to an annual allowance of $A 20,000.
[f] Also entitled to an annual allowance of 11,740 euros.

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General Assembly

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Fifth Committee
Agenda item 108
Programme budget for the biennium 2004-2005

Conditions of service and compensation for officials other than Secretariat officials

Members of the International Court of Justice

Judges of the International Criminal Tribunal for the Former Yugoslavia

Judges of the International Criminal Tribunal for Rwanda

Ad litem judges of the International Criminal Tribunal for the Former Yugoslavia

Ad litem judges of the International Criminal Tribunal for Rwanda

Report of the Secretary-General

Corrigendum

1. **Paragraph 98, lines 6 and 7**

   For $2,320,600 *read* $1,041,200.

2. **Table 3**

   The entry for the Members of the International Court of Justice *should read*

Members of the International Court of Justice	
Salary	255 000
Pensions	(44 900)
Education Grant	22 000
Total	**232 100**

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